

National Credit Union Administration

§ 704.11

§ 701.36, paragraph (b) of this section applies.

(b) *Investment in fixed assets.* (1) No corporate credit union, without the prior written approval of the NCUAB, shall invest in fixed assets where the aggregate of all such investments exceeds 15 percent of capital.

(2) A corporate credit union shall submit requests to exceed the limitation of paragraph (b)(1) of this section to the Director, Office of Corporate Credit Unions. Requests shall be supplemented by such statements and reports as the Director, Office of Corporate Credit Unions may require. If the corporate credit union does not receive notification of the action taken on its request within 45 calendar days of the date the request was received by the Director, Office of Corporate Credit Unions, the corporate credit union may proceed with its proposed investment in fixed assets. If the NCUAB determines that the proposal will not adversely affect the corporate credit union, it will respond in writing and an aggregate dollar amount or percentage of total capital will be approved for investment in fixed assets.

[57 FR 22630, May 28, 1992, as amended at 57 FR 28086, June 24, 1992; 59 FR 47072, Sept. 14, 1994]

§ 704.11 Corporate reserves.

(a) *Minimum capital ratio.* Each corporate credit union shall maintain a minimum ratio of risk-based capital to risk-weighted assets as follows:

(1) Within 90 days of the effective date of this regulation, primary capital shall be at least 4 percent of risk-weighted assets, or the corporate credit union will develop and implement a plan acceptable to NCUA for achieving an adequate level of primary capital consistent with the provisions of this regulation. This plan shall be submitted to the Director, Office of Corporate Credit Unions.

(2) By January 1, 1994, total capital shall equal at least 8 percent of risk-weighted assets, or the corporate credit union will develop and implement a plan acceptable to NCUA for achieving an adequate level of capital consistent with the provisions of this regulation. This plan shall be submitted to the Di-

rector, Office of Corporate Credit Unions.

(b) *Exceptions.* The NCUAB may modify a corporate credit union's reserve requirements under special circumstances.

(c) *Components of risk-based capital.* A corporate credit union's qualifying capital base consists of primary and secondary capital of which at least 50 percent shall be composed of primary capital.

(d) *Limitations.* For purposes of calculating the amount of secondary capital, term subordinated debt shall not exceed 50 percent of secondary capital.

(e) *Procedures.* Balance sheet assets and credit equivalent amounts for off-balance sheet items are assigned to a risk-weight category. The total dollar amount in each category shall be multiplied by the risk-weight assigned to that category. The sum of the categories comprises risk-weighted assets.

(f) *Frequency.* Each corporate credit union shall calculate the ratio of capital to risk-weighted assets each month. A record of such calculation shall be maintained.

(g) *Risk-weights for balance sheet assets.* Each balance sheet asset shall be assigned a risk-weight of 0 percent, 20 percent, 50 percent, and 100 percent as indicated in appendix A to this part.

(h) *Other considerations.* (1) An investment in the shares of a mutual fund is assigned to the risk category appropriate to the highest risk-weighted asset that the fund is permitted to hold. In addition, if the fund engages in speculative activities as defined in § 704.2, then investments in the fund will be assigned to the 100 percent risk category.

(2) Accruals will be assigned the risk-weighting of the underlying asset that they represent.

(i) *Credit conversion factors for off-balance sheet items.* Off-balance sheet items will be risk-weighted each month using credit conversion factors as indicated in appendix B to this part.

(j) *Risk-based capital ratios.* (1) The primary capital ratio is computed by dividing primary capital by total risk-weighted assets.

(2) The total capital ratio is computed by dividing risk-based capital by total risk-weighted assets.

(3) Month-end amounts will be used to calculate corporate credit union capital ratios.

(k) *Required reserve transfers.* The amount that a corporate credit union is required to transfer or set aside in corporate reserves is based on both the corporate credit union's primary and total capital ratios. Ranges of capital ratios have been established. These capital ratio ranges are then associated with 1 of 6 corresponding categories in determining the required reserve transfer. To qualify for a lower reserve transfer category, the capital ratios must fall in both the primary and total capital ratio ranges of the applicable category. The corporate credit union shall set aside an amount equal to the appropriate required reserve transfer percentage times the corporate credit union's average daily assets for the transfer period times the number of days in the transfer period divided by 365. Until January 1, 1994, transfers shall be based on the level of primary capital only.

(1) Category 1 requires a corporate reserve transfer percentage of at least 25 basis points of average daily assets when either the primary capital ratio is less than 4.0 percent or the total capital ratio is less than 8.0 percent. A corporate reserve transfer percentage greater than 25 basis points of average daily assets is required if needed to bring either or both of the capital ratios up to the minimum acceptable level, or the corporate credit union would have to obtain approval from the NCUAB to operate below the minimum capital levels.

(2) Category 2 requires a corporate reserve transfer percentage of 20 basis points of average daily assets when the primary capital ratio is greater than 4.0 percent and less than 6.0 percent or the total capital ratio is greater than 8.0 percent and less than 9.0 percent.

(3) Category 3 requires a corporate reserve transfer percentage of 15 basis points of average daily assets when either the primary capital ratio is greater than 6.0 percent and less than 8.0 percent or the total capital ratio is greater than 9.0 percent and less than 12.0 percent.

(4) Category 4 requires a corporate reserve transfer percentage of 10 basis

points of average daily assets when either the primary capital ratio is greater than 8.0 percent and less than 10.0 percent or the total capital ratio is greater than 12.0 percent and less than 15.0 percent.

(5) Category 5 requires a corporate reserve transfer percentage of 5 basis points of average daily assets when either the primary capital ratio is greater than 10.0 percent and less than 12.0 percent or the total capital ratio percentage is greater than 15.0 percent and less than 18.0 percent.

(6) Category 6 requires a corporate reserve transfer percentage of 0 basis points when the primary capital ratio is greater than 12.0 percent and the total capital ratio percentage is greater than 18.0 percent.

(l) Corporate credit unions must provide reserves necessary for full and fair disclosure as specified in § 702.3 of the NCUA Rules and Regulations.

[57 FR 22630, May 28, 1992, as amended at 57 FR 28086, June 24, 1992; 59 FR 47072, Sept. 14, 1994]

§ 704.12 Representation.

(a) *Board representation.* The board shall be determined as stipulated in the standard corporate federal credit union bylaws governing election procedures, provided that:

(1) At least a majority of directors, including the chair of the board, must serve on the board as representatives of member credit unions;

(2) The chair of the board may not serve simultaneously as an officer, director, or employee of a credit union trade association;

(3) A majority of directors may not serve simultaneously as officers, directors, or employees of the same credit union trade association or its affiliates (not including chapters or other subunits of a state trade association);

(4) For purposes of meeting the requirements of paragraphs (a)(2) and (a)(3) of this section, an individual may not serve as a director or chair of the board if that individual holds a subordinate employment relationship to another employee who serves as an officer, director, or employee of a credit union trade association;

(5) In the case of a corporate credit union whose membership is composed